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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)

I hereby declare that:

Each inventor's residence, mailing address and citizenship are stated below next to their name.

I believe the inventors named below to be the original and first inventor(s) of the subject matter which is described and claimed in patent number US 6,539,778, granted Apr. 1, 2003 and for which a reissue patent is sought on the invention entitled Subsea Vehicle Assisted Pipeline Commissioning Method

the specification of which

☒ is attached hereto.☐ was filed on _____ as reissue application number _____and was amended on _____
(If applicable)

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

☐ I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

This is a broadening reissue. The error is having "pumps" in line 4 of claim 6. The step of "...raising the internal pressure of the pipeline sufficiently for hydrostatic testing of the pipeline." is illustrated in the specification by a single pump. Claim 6 is amended to specifically include a single pump.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2)

Docket Number (Optional)

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.

Note: To appoint a power of attorney, use form PTO/SB/81.

Correspondence Address: Direct all communications about the application to:

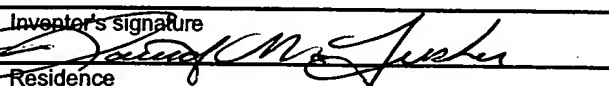
☐ Customer Number:

OR

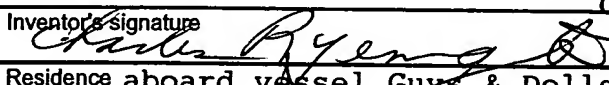
<input checked="" type="checkbox"/> Firm or Individual Name	Kurt S. Myers			
Address	7634 Braesdale			
Address				
City	Houston	State	TX	Zip 77071
Country	USA			
Telephone	(713) 774-7152	Fax	same	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name) David M. Tucker

Inventor's signature	Date
	11/12/03
Residence	Citizenship
20110 Kingsland Blvd., Katy, TX	USA
Mailing Address	
20110 Kingsland Blvd., Katy, Texas	77450

Full name of second joint inventor (given name, family name)

Charles R. Yemington	
Inventor's signature	Date
	25 SEPT 2003
Residence aboard vessel Guys & Dolls	Citizenship
USCG registration # 641489	USA
Mailing Address	
2805 Oak Trail Ct. #5961, Arlington, Texas	76016-6008

Full name of third joint inventor (given name, family name)

Inventor's signature	Date
Residence	Citizenship
Mailing Address	

☐ Additional joint inventors or legal representative(s) are named on separately numbered sheets forms PTO/SB/02A or 02LR attached hereto.

SAU 440 (Rev. 10/93) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

Texas

Oceaneering International, Inc.

SUMMONS IN A CIVIL CASE

v.

Valkyrie Commissioning Services, Inc.

CASE NUMBER:

H-03-2715

TO: (Name and address of Defendant)

Thomas Erdos, Jr.
14100 SW Fwy #220
Sugarland, Texas 77478
Registered Agent of
Valkyrie Commissioning Services, Inc.

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Richard T. Redano
Gary R. Maze
Duane Morris LLP
One Greenway Plaza, Suite 500
Houston, Texas 77046

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

MICHAEL N. MILBY

7/21/03

CLERK

DATE

(By) DEPUTY CLERK

T10/2003

07/21/2003 MON 15:59 FAX 281 277 4111 Erdos & Juravich, LLP

SD 440 (Rev. 10/93) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ¹¹	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____		
<input type="checkbox"/> Returned unexecuted: _____ _____ _____		
<input type="checkbox"/> Other (specify): _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

JUL 21 2003
COPY

OCEANEERING INTERNATIONAL, INC.

Plaintiff,

v.

VALKYRIE COMMISSIONING SERVICES

Defendant.

Civil Action No

JURY DEMAND

H-03-2715

ORIGINAL COMPLAINT

I. PARTIES

1. Plaintiff Oceaneering International, Inc. ("Oceaneering") is a Delaware corporation having its principal place of business at 11911 F.M. 529, Houston, TX 77041.

2. On information and belief, Defendant Valkyrie Commissioning Services ("Valkyrie") is a Texas corporation having its principal place of business at Emmett Business Park, 13415 Emmett Road, Houston, TX 77041.

II. JURISDICTION AND VENUE

3. Jurisdiction for all counts exists pursuant to 28 U.S.C. §§2201, 2202 and 1338(a). Venue for all counts is proper under either or both of 28 U.S.C. §1391(b) and 28 U.S.C. § 1400(b).

III. BACKGROUND

Provisional March 13, 01

4. On June 26, 2001, Valkyrie filed a patent application with the United States Patent and Trademark Office ("Patent Office") for an invention entitled "Subsea Vehicle Assisted Pipeline Commissioning Method." This patent application was assigned serial number 09/892,314 ("the '314 Patent Application").

5. Initially, the '314 Patent Application was kept in confidence by the Patent Office pursuant to 35 U.S.C. § 122(a).

6. On May 17, 2001 and on June 27, 2001, Oceaneering and Valkyrie entered into two Confidentiality Agreements regarding subject matter described in the '314 Patent Application.

7. On September 19, 2002, the '314 Patent Application was published by the Patent Office pursuant 35 U.S.C. § 122(b).

8. By virtue of the publication by the Patent Office of the '314 Patent Application, all subject matter in the '314 Patent Application became generally available to the public.

9. The publication of the '314 Patent Application by the Patent Office did not result from any disclosure by Oceaneering or any of its representatives.

10. In an Office Action dated June 5, 2002, the Patent Office allowed only two of the thirteen claims originally submitted by Valkyrie in the '314 Patent Application and rejected several other claims in view of the prior art, i.e. as being too broad to be allowable under the criteria for patentability set forth by the federal patent laws. A true and correct copy of this June 5, 2002 Office Action is attached as Exhibit A.

11. In response to the rejection of its pending patent claims, Valkyrie filed amended claims with the Patent Office on October 24, 2002 which were narrower in scope than the original claims which Valkyrie initially filed with the '314 Patent Application.

12. U.S. Patent No. 6,539,778 ("the '778 Patent") issued to Valkyrie from the '314 Patent Application on April 1, 2003. A true and correct copy of the '778 Patent is attached as Exhibit B.

13. Claim 6 of the '778 Patent comprises a limitation which includes the language "using a submersible vehicle (SV) to operate pumps." This is one of the patent claims that Valkyrie was forced to narrow in the face of the June 5, 2002 rejection of its claims by the Patent Office.

14. In its originally submitted form, claim 6 comprised the limitation "using at least one subsea water pump."

15. By virtue of the April 1, 2003 issuance of the '778 Patent by the Patent Office, all subject matter in the '778 Patent, including its entire prosecution history, became generally available to the public, to the extent that it was not already generally available to the public from the September 19, 2002 publication of the '314 Patent Application.

16. The issuance and publication of the '778 Patent by the Patent Office did not result from any disclosure by Oceaneering or any of its representatives.

17. In response to a March 26, 2003 letter from Valkyrie, Oceaneering informed Valkyrie by letter dated May 8, 2003 that Oceaneering had "noted that during the prosecution of the '778 Patent before the Patent Office, Valkyrie was forced to narrow claim 6 from using a 'pump' to using multiple pumps." Oceaneering requested that Valkyrie respond if it was Valkyrie's "position that claim 6 of the '778 Patent covers a process employing only a single SV pump to pressurize a pipeline." A true and correct copy of this May 8, 2003 letter is attached as Exhibit C.

18. By letter of May 30, 2003, Valkyrie's counsel wrote to Oceaneering, admitting that Column 7, lines 1-5 of the '778 Patent disclosed the use of a single pump to pressurize a pipeline during hydrostatic testing. A true and correct copy of this May 30, 2003 letter is attached as Exhibit D.

19. In its May 30, 2003 letter, Valkyrie's counsel also stated that "we disagree with Oceaneering's characterization of the scope of claim 6 of the '778 Patent."

20. By letter of June 16, 2003, Oceaneering's counsel informed Valkyrie's counsel of Oceaneering's disagreement with Valkyrie's interpretation of claim 6 of the '778 Patent and sought additional information from Valkyrie's counsel. A true and correct copy of this June 16, 2003 letter is attached as Exhibit E.

21. On July 14, 2003, after months of correspondence between Valkyrie and Oceaneering regarding the scope of the '778 Patent and related confidentiality agreement issues, Valkyrie sued Oceaneering in a Harris County Texas state District Court seeking declaratory judgment relief relating to one of the confidentiality agreements between Valkyrie and Oceaneering. A true and correct copy of Valkyrie's state court petition is attached as Exhibit F.

22. In its state court petition, Valkyrie also sought an *ex parte* temporary restraining order (TRO), representing to the state court that "there is not enough time to serve notice on the Defendant and to hold a hearing on the application." (Exhibit F, ¶ 4.7)

23. On July 14, 2003, Valkyrie obtained its *ex parte* TRO against Oceaneering. A true and correct copy of this TRO is attached as Exhibit G. This *ex parte* TRO restrains Oceaneering "from hydrostatic testing subsea pipelines using a pump operated by submersible vehicle in any manner." (Exhibit G, ¶ 3(b))

24. The *ex parte* TRO which Valkyrie obtained in state court restrains Oceaneering from practicing the invention for which Valkyrie unsuccessfully attempted to obtain patent protection in the '314 Patent Application.

25. The correspondence passing between Valkyrie and Oceaneering since May 2003, Valkyrie's filing a lawsuit against Oceaneering in state court seeking an *ex parte* TRO, and Valkyrie's obtaining an *ex parte* TRO against Oceaneering in state court which restrains Oceaneering from practicing an invention that Valkyrie unsuccessfully attempted to patent, and which is now in the public domain, places Oceaneering in imminent apprehension of being sued in federal court for direct, inducing and/or contributory infringement of the '778 Patent, thereby creating an actual and justiciable controversy between Oceaneering and Valkyrie regarding the infringement, validity, and enforceability of the '778 Patent.

IV. COUNT I - DECLARATORY JUDGMENT OF NO DIRECT INFRINGEMENT

26. This claim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and under 35 U.S.C. § 101 *et seq.*

27. Plaintiff realleges the allegations of paragraphs 4-26.

28. Plaintiff has not directly infringed any claims of the '778 Patent.

V. COUNT II - DECLARATORY JUDGMENT OF NO INDUCING INFRINGEMENT

29. This claim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and under 35 U.S.C. § 101 *et seq.*

30. Plaintiff realleges the allegations of paragraphs 4-26.

31. Plaintiff has not induced infringement of any claims of the '778 Patent.

**VI. COUNT III - DECLARATORY JUDGMENT
OF NO CONTRIBUTORY INFRINGEMENT**

32. This claim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and under 35 U.S.C. § 101 *et seq.*

33. Plaintiff realleges the allegations of paragraphs 4-26.

34. Plaintiff has not contributorily infringed any claims of the '778 Patent.

VII. COUNT IV - DECLARATORY JUDGMENT OF PATENT UNENFORCEABILITY

35. This claim arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and under 35 U.S.C. § 101 *et seq.*

36. Plaintiff realleges the allegations of paragraphs 4-26.

37. On information and belief, Valkyrie has distributed copies of the '314 Patent Application to actual or prospective customers, and has misled these customers into believing that this published patent application confers exclusive patent rights upon Valkyrie.

38. On information and belief, Valkyrie intentionally misled actual or prospective customers into believing that Valkyrie had obtained a patent on subject matter described in the '314 Patent Application prior to the time that the '778 Patent had issued, with an intent to competitively injure Oceaneering.

39. On information and belief, Valkyrie has attempted to expand the temporal scope of the '778 Patent beyond its statutory term by the aforementioned acts, i.e. by attempting to assert non-existent patent rights in a patent application. These attempts to unlawfully expand the temporal scope of the '778 Patent constitute patent misuse, rendering the '778 Patent unenforceable.

40. Valkyrie has attempted to misuse the '778 Patent to restrain Oceaneering from practicing inventions, or from providing equipment which may be used by others to practice inventions, which are outside the scope of any claims of the '778 Patent. On information and belief, Valkyrie has attempted to unlawfully expand the scope of the '778 Patent with an intent to competitively injure Oceaneering.

41. Valkyrie's attempts to expand the scope of the '778 Patent beyond any nonfrivolous claim interpretation constitutes patent misuse rendering the '778 Patent unenforceable.

VIII. PRAYER FOR RELIEF

42. Plaintiffs request the following relief:

- a. a declaratory judgment that Oceaneering has not directly infringed any claims of the '778 Patent;
- b. a declaratory judgment that Oceaneering has not contributorily infringed any claims of the '778 Patent;
- c. a declaratory judgment that Oceaneering has not induced infringement of any claims of the '778 Patent;
- d. a declaratory judgment that the '778 Patent is unenforceable;
- e. an award of Plaintiff's reasonable attorneys fees and costs as provided under 35 U.S.C. §285 and Fed.R.Civ.P. Rule 54(d);
- f. an award of prejudgment and post-judgment interest; and
- g. such other and further relief as the Court deems just and appropriate.

IX. DEMAND FOR JURY TRIAL

44. Pursuant to the Seventh Amendment to the U.S. Constitution, Plaintiff demands a jury trial.

Respectfully submitted,



Richard T. Redano

Attorney-in-Charge

Texas Bar No. 16658400

S.D.# 6091

Gary R. Maze

Texas Bar No. 00792678

S.D.# 21513

DUANE MORRIS LLP

One Greenway Plaza - Suite 500

Houston, TX 77046

Tel.: 713.964.7700

Fax: 713.964.7701

Attorneys for Oceaneering International,
Inc.

ROU20169.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Reissue application of	§	
	§	Art Unit 2856
U.S. Patent 6,539,778	§	
	§	Examiner:
Granted Apr. 1, 2003	§	Garber, Charles D.
	§	
Title: Subsea Vehicle Assisted Pipeline	§	Attorney Docket: VCSre
Commissioning Method	§	

Statement of Ownership
And
Power of Attorney

Commissioner for Patents
Alexandria, VA 22313-1450

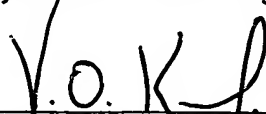
Sir:

I, Vince Kouns President of Valkyrie Commissioning Services, Inc., assignee of the entire interest in U.S. Patent 6,539,778, give written consent to the filing of this reissue application. The assignments of the inventors, David M. Tucker and Charles R. Yemington, to Valkyrie Commissioning Services, Inc. have been recorded in the U.S. Patent Office as set forth in the recording cover sheets attached.

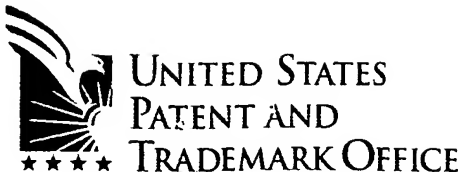
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Kurt S. Myers, Registration No. 20,244, 7634 Braesdale, Houston, Texas 77071, my attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the U. S. Patent and Trademark Office connected therewith.

Valkyrie Commissioning Services, Inc.



Vincent O. Kouns, Jr., President



DECEMBER 11, 2001

PTAS

Under Secretary of Commerce For Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.uspto.gov

KURT S. MYERS
7634 BRAESDALE
HOUSTON, TX 77071



101908448A

UNITED STATES PATENT AND TRADEMARK OFFICE
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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/20/2001

REEL/FRAME: 012227/0087
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

TUCKER, DAVID M.

DOC DATE: 06/26/2001

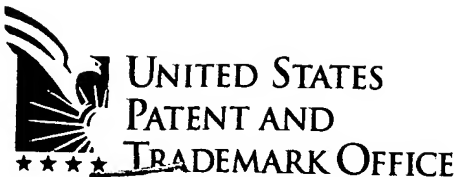
ASSIGNEE:

VALKYRIE COMMISSIONING SERVICES,
INC.
13415 EMMETT ROAD
A TEXAS CORPORATION
HOUSTON, TEXAS 77041

SERIAL NUMBER: 09892314
PATENT NUMBER:

FILING DATE: 06/26/2001
ISSUE DATE:

MARY BENTON, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



DECEMBER 11, 2001

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RECORDATION DATE: 06/26/2001

REEL/FRAME: 012229/0136
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

YEMINGTON, CHARLES R.

DOC DATE: 06/22/2001

ASSIGNEE:

VALKYRIE COMMISSIONING SERVICES,
INC., A TEXAS CORPORATION
13415 EMMETT ROAD
HOUSTON, TEXAS 77041

SERIAL NUMBER: 09892314
PATENT NUMBER:

FILING DATE: 06/26/2001
ISSUE DATE:

SAUNDRA BALLENGER, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS